

**House Ways and Means Oversight Subcommittee
Private Equity in Healthcare
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**Testimony of Milly Silva
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Chairman Pascrell and distinguished members of the committee, my name is Milly Silva. I serve as Executive Vice President of 1199SEIU, the largest union of healthcare workers in the United States. Our members include certified nursing aides (CNAs), nurses, housekeepers, dietary aides, cooks, recreation aides, and other frontline staff in nursing homes.

Many of us have someone in our life—perhaps a parent, a friend, or even a child—who lives in a nursing facility. Nursing homes play an essential role in our communities, supported largely by public tax dollars, to care for our most vulnerable. Family members deserve peace of mind knowing that the money which goes to these institutions—oftentimes a retired person’s entire lifesavings before they become Medicaid-eligible—is invested directly into improving their quality of life, not siphoned away to line the pocket of a private equity firm.

Unfortunately, too much of the nursing home industry has become dominated by private-equity actors whose overriding mission is not to enhance care at the bedside, but to maximize profit. This results in operators attempting to cut corners in ways detrimental to the health and wellbeing of residents, as well as the livelihoods of their caregivers. In fact, a recent working paper from the National Bureau of Economic Research found that private equity ownership of nursing homes is associated with a 10% increase in the short-term mortality of Medicare patients—equal to 20,150 additional deaths over the past decade.¹ This should be a wake-up call that urgent action is needed to save lives.

The stories that our members tell of their daily struggles are heartbreaking—insufficient staffing levels that cause bedridden residents to develop pressure ulcers or to lie in soiled linens for hours at a time; supply closets missing basic necessities like fresh towels or masks; low-wage caregivers paying out of their own pocket for soap, shampoo, and clothes for their residents; workers themselves facing insurmountable financial hardship because of inadequate pay and benefits.

The single most important asset of any nursing home is its dedicated staff, the overwhelming number of whom are women and the majority who are people of color. Over the years, I have come to appreciate that there is no job more physically and emotionally demanding than that of a nursing home caregiver. These are some of the most dangerous jobs in America with among the highest injury rates of any profession. These workers are also some of the lowest paid, with

¹ Gupta, Atul, Sabrina T. Howell, Constantine Yannelis, Abhinav Gupta, “Does Private Equity Investment in Healthcare Benefit Patients? Evidence from Nursing Homes,” National Bureau of Economic Research, February 2016. Available: <https://www.nber.org/papers/w28474>

many not even having access to living wages or affordable health insurance, and experiencing deep poverty.

I think of Ella, a certified nursing assistant who took great pride in caring for a Tuskegee airman, even though she earned so little that she couldn't afford her electric bill—and had the power in her apartment shut off.

I think of Claire, who was forced into premature retirement after suffering a debilitating spinal injury when a patient fell on her.

I think of Cheryl, who worked for nearly 30 years at her nursing home until she passed away from COVID-19, one year ago this Tuesday, after being denied access to sufficient personal protective equipment by her employer.

The tragedy that unfolded in nursing homes over the past year has exposed the terrible consequences of a system that for too long has prioritized quick profit over quality care—cutting corners at the expense of vulnerable residents and leaving caregivers unprepared for when crisis hits.

Lisa, a certified nursing aide, says that regular, in-person trainings at her facility were ended as soon as a private equity group took over. Gemma, a nurse at another private-equity backed institution, talks about how she and her co-workers would break down crying because there were times when there would be only two caregivers responsible for nearly 50 residents, just as the virus was surging.

Unfortunately, I am gravely concerned that the industry has not learned the hard lessons of the past year. As we speak, one private equity company, which has just become the single largest operator of nursing homes in New Jersey, is planning to eliminate the affordable health insurance plans, educational benefits, and retirement plans of hundreds of frontline workers across five institutions, effective April 1, as a result of nursing home sales related to private equity debt. Is this how operators should be valuing caregivers and the services they provide, amid a pandemic and at a time when our society is aging and in need of greater end-of-life care?

Rather than having a system that fosters competition among providers to provide the best care, the lack of financial transparency and oversight in the nursing home sector has meant that some operators attempt to provide the least amount of care at the highest possible price, rather than the highest quality of care in the most efficient way.

This needs to change, and there are a range of reform ideas that would help to move this industry in a better direction. Part of what needs to happen is to make sure that caregivers can effectively advocate for themselves and their residents. When caregivers have a voice at work, patients are better protected. In fact, a study of the New York nursing home industry published in *Health Affairs* last September found a 42% relative decrease in COVID-19 infection rates, and a 30% relative decrease in mortality rates, among nursing home residents at facilities where

workers had union representation. Workers at such facilities also had better access to n95 masks and eye shields.²

While the presence of unions is one check against nursing homes under-investing in care, strong legislative oversight is another. In New Jersey, an independent review of the long-term care industry commissioned by the Murphy Administration and conducted by Manatt Health offered a range of valuable recommendations. These include: creating new procedures for overseeing and regulating changes in nursing home ownership, bolstering the workforce through wage enhancements and increased educational opportunities, strengthening penalties for nursing homes with serious deficiencies, and improving direct care staffing levels.³

Among the many frustrations that nursing home workers often raise about their jobs, concern over poor staffing levels often rises above all else. Research conducted by CMS has found that nursing home residents should receive a minimum of 4.1 hours of nursing care per day to meet federal quality standards.⁴ Sadly, most nursing homes do not meet this threshold. Staffing is particularly lackluster in facilities under private equity ownership, where residents are, on average, provided with fewer hours of daily care by CNAs yet are 50% more likely to be put on antipsychotic medications,⁵ which cause patients to become more docile, passive, and compliant.

Staffing problems, existing long prior to the pandemic, are compounded by astronomical annual employee turnover rates within the industry, averaging 128% nationally and exceeding 300% at some institutions, according to a recent study using industry payroll data collected by CMS.⁶

In New Jersey and across the country, the COVID-19 pandemic has tragically shown the consequence of poor staffing levels in nursing homes. Family members, caregivers, advocates, New Jersey's long-term care ombudsman, and nursing home residents themselves have all pointed to deplorable staffing conditions as a primary failure to meeting residents' physical and emotional needs during this most challenging time. Staffing levels went from bad to worse almost overnight because nursing homes, especially for-profit and private-equity owned facilities, had been operating with skeletal staffing to begin with.

As a result of 1199SEIU's dedicated advocacy, New Jersey has acted recently by implementing a law establishing the strongest CNA-to-resident staffing ratios in the country. Similarly, in New York we are advocating for the gold standard of 4.1 hours per resident day of

² Dean, Adam, Atheendar Venkataramani, and Simeon Kimmel, "Mortality Rates From COVID-19 Are Lower In Unionized Nursing Homes," Health Affairs, November, 2020. Available: <https://www.healthaffairs.org/doi/10.1377/hblog20200910.227190/full/>.

³ Manatt Health, "Recommendations to Strengthen the Resilience of New Jersey's Nursing Homes in the Wake of COVID-19," June 2, 2020. Available: https://www.manatt.com/Manatt/media/Documents/NJ-LTC-Report_2.pdf

⁴ Harrington, Charlene, John F. Schnelle, Margaret McGregor, and Sandra F. Simmons, "The Need for Higher Minimum Staffing Standards in U.S. Nursing Homes", Health Serv Insights, April 12, 2016. Available: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4833431/>

⁵ Atul Gupta, et al.

⁶ Gandhi, Ashvin, Huizi Yu, and David C. Grabowski, "High Nursing Staff Turnover In Nursing Homes Offers Important Quality Information," Health Affairs, Vol. 40, No. 3. Available: <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2020.00957>

care, in addition to other industry reforms including: a law mandating that at least 70% of a nursing home's revenue be invested into providing direct care to residents, expanded inspection control audits, and greater oversight of ownership transfers that would require would-be operators to demonstrate that their other nursing homes have acceptable quality care ratings.⁷

The growth of private equity in this industry has undoubtedly had a detrimental effect on the quality of care that is provided in nursing homes, as the stories of workers attest to and as a significant body of recent academic research confirms. I am deeply appreciative of the thoughtful and much-needed attention that this committee is bringing to this issue, in addition to the work of your Senate colleagues during their hearing last week.

It is my sincere hope that lawmakers will take action to reign in private equity in the nursing home industry so that we can build a system of long-term care in this country that puts residents and their caregivers first, transforming nursing homes into vibrant places to live and work.

⁷ See www.investinqualitycare.org